

REMARKS

Claims 1, 11, and 15 are amended above to require the zones to have specific radial width. Support is found in Applicants' Specification, page 4, lines 29 - 30.

Applicants attempted to contact Examiner Williams regarding errors and contradictions in the Office Action dated 07/26/2006, but learned from Supervisor Anthony Knight on 08/24/2006 that Examiner Williams is no longer with the Office. Supervisor Knight requested Applicants to respond to the Office Action as best as possible. The remarks below represent Applicants best attempt to respond in light of the errors and contradictions as noted below.

Claims 1 - 18 are rejected under 35 U.S.C. 101 for the first time in this second Office Action, as directed to non-statutory subject matter. Applicants believe the Examiner meant to reject claims 1, 3 - 11, 13 - 15, and 17 - 18 because claims 2, 12, and 16 were cancelled in their amendment filed 04/27/2006. The Examiner states that Applicants have not cited specific results that would define a useful, concrete, and tangible result.

Applicants respectfully disagree. Clearly independent claims 1, 11, and 15 are directed by their respective preambles to defining a learning solution, which in itself is a useful, concrete, and tangible result. For example, as stated in Applicants' specification on page 2, lines 5 - 12, Sketch

describes providing learning solutions in patent application US 2002/0077884. This application is presently before the Board of Patent Appeals and Interferences; however, no rejection under U.S.C. 101 was ever made. Regarding the steps of claim 1, one of ordinary skill would be able to practice these steps in light of Applicants' Specification. The end result being a definition of a learning solution, e.g., for a specific client (Specification page 4, line 29). Independent claims 11 and 15 recite similar limitations and therefore also provide a useful, concrete, and tangible result. All of the remaining claims 3 - 10, 13 - 14, and 17 - 18 depend upon claims 1, 11, or 15, and therefore incorporate these limitations.

Applicants' claims, therefore, all present statutory subject matter and are allowable under 35 U.S.C. 101. Rejection is in error. Applicants respectfully request withdrawal of the rejection under 35 U.S.C. 101.

The Examiner has rejected claims 1 - 18 under 35 U.S.C. 102(b) as being anticipated by Sketch (US Patent Application 2002/007784). As best can be determined, Applicants believe the Examiner meant to reject claims 1, 3 - 11, 13 - 15, and 17 - 18 because claims 2, 12, and 16 were earlier cancelled as noted above.

This is the same rejection as in the previous Office Action dated 04/27/2006, which was addressed in Applicants' amendment and remarks filed 04/27/06. The Examiner has failed to adequately respond to Applicants' amendment and remarks dealing

with independent claims 1, 11, and 15 in which Applicants show there is no description or suggestion in Sketch of forming a ratio of formal to informal learning and no description or suggestion of providing a circular diagram having an inner circular area defining this ratio as required by Applicants' independent claims 1, 11, and 15.

In fact, the Examiner later contradicts himself with regard to rejection of claims 1, 11, and 15 under 35 U.S.C. 102(b) by admitting on page 8, last paragraph, that Sketch fails to disclose a circular diagram having zones and an inner circular area. Rejection of claims 1, 11, and 15 under 35 U.S.C. 102(b) is therefore clearly in error and must be withdrawn. Likewise, all of the remaining claims 3 - 10, 13 - 14, and 17 - 18 depend on independent claims 1, 11, or 15 and therefore incorporate these limitations, making their rejection also in error. Applicants respectfully request the rejection under 35 U.S.C. 102(b) be withdrawn.

In addition, Applicants maintain, as previously argued, that dependent claim 5 is of itself allowable over Sketch because Sketch does not describe or suggest that the business purpose comprise either increasing sales or decreasing errors. The Examiner's response is that Sketch discloses thinking cross-functionally about ideas that would impact the business and the Examiner then states that because of this disclosure of thinking cross-functionally, the employee would want to think about ideas that would impact the business in ways that would increase sales, as well as, decreasing errors. Applicants respectfully

disagree. There is nothing to indicate that thinking cross-functionally has anything to do with aligning the solution components of purpose to the solution context where the purpose is a business purpose comprising increasing sales or decreasing errors as required by claim 5. The Examiner's rejection of claim 5 under 35 U.S.C. 102(b) is also clearly in error for this reason.

Further, in addition, Applicants maintain, as previously argued, that dependent claim 7 is of itself allowable over Sketch because Sketch does not describe or suggest that the measurement component includes calculating a return on investment. As previously noted, there may be some measuring of learner performance in the cited paragraphs of Sketch, but there is no description or suggestion of calculating a return on investment for learner performance as required by claim 7. The Examiner states that such measuring is equivalent to calculating a return on investment. Applicants disagree. Calculating a return on investment is a well-defined term in the art, involving calculating a percentage financial return on a financial investment. The measuring described in paragraphs 0052 - 0053 of Sketch neither describe nor suggest anything equivalent to calculating a return on investment as required in claim 7. The Examiner's rejection of claim 7 under 35 U.S.C. 102(b) is also clearly in error.

Claims 1, 11, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sketch in view of Gray (US Patent Application 2006/0036629). As best can be determined,

applicants believe the Examiner meant to reject independent claims 1, 11, and 15 because claim 16 was previously cancelled.

Applicants maintain this rejection is in error because clearly neither Sketch nor Gray describe or suggest providing a learning solution context as a circular diagram having zones and an inner circular area defining a ratio of formal to informal learning. The Examiner admits such by subsequently rejecting claims 1, 11, and 16 (actually 15) under 35 U.S.C. 103(a) as being unpatentable over Sketch in view of Gray in further view of Lloyd (2001, Gain Credit with CLEP). Applicants therefore respectfully request withdrawal of the rejection under 35 U.S.C. 103(a) to Sketch and Gray alone, and argue below the rejection under 35 U.S.C. 103(a) to Sketch combined with Gray and Lloyd.

The Examiner states that Gray teaches a system and process...that has a circular diagram having zones and an inner circular area, citing FIG. 4 of Gray. Applicants disagree. FIG. 4 is not a circular diagram. FIG. 4 is a diagram depicting a simplified example of a zone-mapped sphere. See Gray paragraph [0045]. Furthermore, Gray specifies that the zones each form a strip of the same prescribed height. See Gray paragraph [0019], lines 3 and 4. Gray's FIG. 4, therefore, cannot be Applicants' circular diagram because the zones are horizontal and all of the same width, whereas Applicants' circular diagram has specific radial width for zones.

The Examiner further states that in Lloyd's description of the College-Level Examination Program, a person's GPA would be

Applicants' defining of informal learning to formal learning. There is no mention of GPA in Lloyd. Furthermore, Applicants' independent claims 1, 11, and 15 require an inner circular area of a circular diagram to define a ratio of formal to informal learning. Applicants do not see how a GPA (grade point average?) would define anything other than the weighted average grade earned in course work and certainly not a ratio of formal to informal learning.

Therefore, Sketch, Gray, and Lloyd when taken together do not describe or suggest all of the requirements of Applicants' independent claims 1, 11, and 15 as amended above. These claims are allowable and such allowance is respectfully requested.

The Application is deemed in condition for allowance and such action by the Examiner is urged. Should differences remain, however, which do not place one/more of the remaining claims in condition for allowance, the Examiner is requested to phone the undersigned at the number provided below for the purpose of providing constructive assistance and suggestions in accordance with M.P.E.P. Sections 707, 707.07(d) and 707.07(j) in order that allowable claims can be presented, thereby placing the application in condition for allowance without further proceedings being necessary.

Respectfully submitted,

Dated: _____

By: /John R. Pivnichny/

Telephone: (607)429-4358

John R. Pivnichny

Fax: (607)429-4119

Reg. No. 43,001